

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VOEST ALPINE INDUSTRIES,)
INC.,)
Plaintiff,) 2:02cv1605
) Electronic Filing
v.) Judge David S. Cercone/
ZURICH AMERICAN INSURANCE) Magistrate Judge Sensenich
COMPANY,) Re: Doc. No. 34
Defendant.)

MEMORANDUM ORDER

On September 19, 2002, this case was referred to United States Magistrate Judge Ila Jeanne Sensenich for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 71.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on August 9, 2005, recommended that the motion for partial summary judgment filed by Defendant be granted in its favor on the issue that the West Virginia litigation was not reported to Zurich and is not covered under the Zurich policy. It further recommended that the motion for partial summary judgment filed by Defendant be granted in its favor on the issue that Voest has the burden of proving that the amounts it paid under the settlement agreement achieved as a result of the February 2002 mediation relate to matters covered under the Zurich policy. The parties were allowed ten (10) days from the date of service to file objections. Service was made on all parties. No objections have

been filed. After review of the report and recommendation, the following order is entered: *th*

AND NOW, this 25 day of August, 2005;

IT IS HEREBY ORDERED that the motion for partial summary judgment filed by Defendant is granted in its favor on the issue that the West Virginia litigation was not reported to Zurich and is not covered under the Zurich policy.

IT IS FURTHER ORDERED that the motion for partial summary judgment filed by Defendant is granted in its favor on the issue that Voest has the burden of proving that the amounts it paid under the settlement agreement achieved as a result of the February 2002 mediation relate to matters covered under the Zurich policy.

The report and recommendation of Magistrate Judge Sensenich, dated August 9, 2005, is adopted as the opinion of the court.

DS Ceroni

David Stewart Ceroni
United States District Judge

Notice sent electronically or via U.S. mail to:

Ila Jeanne Sensenich
U.S. Magistrate Judge

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